

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JESSIE SUNIGA,

Plaintiff,

v.

Civ. No. 21-015 JB/GJF

CURRY COUNTY ADULT DETENTION CENTER,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten letter filed by Jessie Suniga. (Doc. 1). The Court determines that the pro se filing is deficient because it is not in proper form or signed under penalty of perjury by Plaintiff, and Plaintiff has not paid the \$402 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

Plaintiff's filing consists of a document complaining about the conditions of his confinement at the Curry County Detention Center. (Doc. 1). Although he does not expressly allege violation of any constitutional right, Plaintiff's filing may possibly be an attempt to assert prisoner civil rights claims under 42 U.S.C. § 1983. A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. See, *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under 42 U.S.C. § 1983).

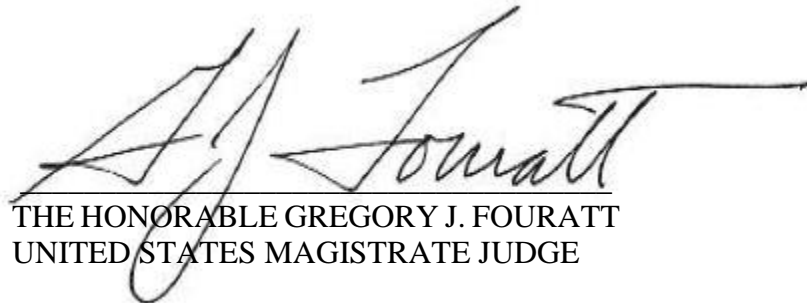
The filing is not in proper form to assert civil rights claims and is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a). In addition, under 28 U.S.C. §§ 1914(a) and

1915(a), the Court is required to collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$402.00 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Plaintiff must include the civil action number, CV 21-00015 JB/GJF on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IS ORDERED that, within thirty (30) days of entry of this Order, Plaintiff Jessie Suniga cure the deficiencies by (1) paying the \$402 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs (including the required 6-month inmate account statement) and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE